MONTANA LEGISLATIVE HISTORY

Chapter 99 19 85

Bill H 390 S _____ Original bill & history ✓ C

H. Committee on Judiciary		S. Committee on Judiciary	
Hearing Date(s) Jan 31	✓ C	Hearing Date(s) Mar 06	✓ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
_____	___ C	_____	___ C
Date Out Jan 31	✓ C	Mar 06	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

1/23	INTRODUCED		
1/23	REFERRED TO STATE ADMINISTRATION		
2/01	HEARING		
2/01	COMMITTEE REPORT-BILL DO PASS		
2/02	2ND READING PASS	93	2
2/04	3RD READING PASS	96	4
	TRANSMITTED TO SENATE		
2/07	REFERRED TO STATE ADMINISTRATION		
3/13	HEARING		
3/13	COMM REPORT-BILL CONCURRED AS AMENDED		
3/15	2ND READING CONCURRED	48	0
3/18	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/05	2ND READING AMENDMENTS CONCURRED	92	0
4/08	3RD READING AMENDMENTS CONCURRED	96	0
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/16	TRANSMITTED TO GOVERNOR		
4/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 527 EFFECTIVE DATE: 4/18/85		

HB 390 INTRODUCED BY CODY
BRINGING ALL VEHICLES UNDER LAW ON DRIVING UNDER INFLUENCE

1/23	INTRODUCED		
1/23	REFERRED TO JUDICIARY		
1/31	HEARING		
1/31	COMMITTEE REPORT-BILL DO PASS		
2/02	2ND READING PASS AS AMENDED	80	12
2/05	3RD READING PASS	86	14
	TRANSMITTED TO SENATE		
2/07	REFERRED TO JUDICIARY		
3/06	HEARING		
3/06	COMMITTEE REPORT-BILL CONCURRED		
3/07	2ND READING CONCURRED	48	0
3/09	3RD READING CONCURRED	46	2
	RETURNED TO HOUSE		
3/14	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 99 EFFECTIVE DATE: 10/01/85		

HB 391 INTRODUCED BY HARPER
ALLOWING PUBLIC EMPLOYERS TO DEDUCT A UNION REPRESENTATION FEE; NONMEMBERS

1/23	INTRODUCED		
1/23	REFERRED TO BUSINESS & LABOR		
2/07	HEARING		
2/08	ADVERSE COMMITTEE REPORT		
2/09	BILL KILLED	66	32

HOUSE BILL NO. 390

INTRODUCED BY CODY

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on Judiciary.
January 31, 1985	Committee recommend bill do pass. Report adopted.
February 1, 1985	Bill printed and placed on members' desks.
February 2, 1985	Second reading, do pass as amended.
February 4, 1985	Correctly engrossed.
February 5, 1985	Third reading, passed. Ayes, 86; Noes, 14.
	Transmitted to Senate.

IN THE SENATE

February 7, 1985	Introduced and referred to Committee on Judiciary.
March 6, 1985	Committee recommend bill be concurred in. Report adopted.
March 7, 1985	Second reading, concurred in.
March 9, 1985	Third reading, concurred in. Ayes, 46; Noes, 2.
	Returned to House.

IN THE HOUSE

March 11, 1985 Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 390

INTRODUCED BY [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE LAW ON DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS TO INCLUDE ALL VEHICLES; AMENDING SECTIONS 61-1-103, 61-8-401, 61-8-402, 61-8-404, AND 61-8-406, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-1-103, MCA, is amended to read:

"61-1-103. Vehicle. "Vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by animal power or used exclusively upon stationary rails or tracks. However, in chapters 3 and 4, the term means "motor vehicle" as defined in this part; and in chapter 8, part 4, the term includes devices moved by animal power."

Section 2. Section 61-8-401, MCA, is amended to read:

"61-8-401. Persons under the influence of alcohol or drugs. (1) It is unlawful and punishable as provided in 61-8-714 for any person who is under the influence of:

(a) alcohol to drive or be in actual physical control of a motor vehicle upon the ways of this state open to the public;

(b) a narcotic drug to drive or be in actual physical control of a motor vehicle within this state;

(c) any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive or be in actual physical control of a motor vehicle within this state; or

(d) alcohol and any drug to a degree that renders him incapable of safely driving a motor vehicle to drive or be in actual physical control of a motor vehicle within this state.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or such a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

(3) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

(a) If there was at that time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol.

(b) If there was at that time an alcohol concentration

in excess of 0.05 but less than 0.10, that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol but such fact may be considered with other competent evidence in determining the guilt or innocence of the person.

(c) If there was at that time an alcohol concentration of 0.10 or more, it shall be presumed that the person was under the influence of alcohol. Such presumption is rebuttable.

(4) The provisions of subsection (3) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol.

(5) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, and subsections (1) through (4) of this section, with the word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties therein provided."

Section 3. Section 61-8-402, MCA, is amended to read:

"61-8-402. Chemical blood, breath, or urine tests. (1) Any person who operates a motor vehicle upon ways of this state open to the public shall be deemed to have given consent, subject to the provisions of 61-8-401, to a

chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood if arrested by a peace officer for driving or in actual physical control of a motor vehicle while under the influence of alcohol. The test shall be administered at the direction of a peace officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon ways of this state open to the public while under the influence of alcohol. The arresting officer may designate which one of the aforesaid tests shall be administered.

(2) Any person who is unconscious or who is otherwise in a condition rendering him incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (1) of this section.

(3) If a resident driver under arrest refuses upon the request of a peace officer to submit to a chemical test designated by the arresting officer as provided in subsection (1) of this section, none shall be given, but the officer shall, on behalf of the division, immediately seize his driver's license. The peace officer shall forward the license to the division, along with a sworn report that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon ways of this state open to the public, while

under the influence of alcohol and that the person had refused to submit to the test upon the request of the peace officer. Upon receipt of the report, the division shall suspend the license for the period provided in subsection (5).

(4) Upon seizure of a resident driver's license, the peace officer shall issue, on behalf of the division, a temporary driving permit, which is valid for 72 hours after the time of issuance.

(5) The following suspension and revocation periods are applicable upon refusal to submit to a chemical test:

(a) upon a first refusal, a suspension of 90 days with no provision for a restricted probationary license;

(b) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the records of the division, a revocation of 1 year with no provision for a restricted probationary license.

(6) Like refusal by a nonresident shall be subject to suspension by the division in like manner, and the same temporary driving permit shall be issued to nonresidents.

(7) All such suspensions are subject to review as hereinafter provided."

Section 4. Section 61-8-404, MCA, is amended to read:

"61-8-404. Evidence admissible -- conditions of admissibility. (1) Upon the trial of any criminal action or

other proceeding arising out of acts alleged to have been committed by any person in violation of 61-8-401 or 61-8-406:

(a) evidence of the amount of alcohol in the person's blood at the time of the act alleged, as shown by a chemical analysis of his blood, breath, or urine, is admissible; and

(b) a report of the facts and results of any chemical test of a person's blood, breath, or urine administered under 61-8-402 is admissible in evidence if:

(i) the breath analysis report was prepared and verified by the person who performed the test or the blood or urine test was a laboratory analysis and the analysis was done in a laboratory operated by the department of justice or by any other laboratory or facility certified or exempt from certification under the rules of the department; and

(ii) the report was prepared in accordance with any applicable rules of the department; and

(iii) if the test was on a blood sample, the person withdrawing the blood must have been competent to do so under 61-8-405(1).

(2) If the person under arrest refused to submit to the test as hereinabove provided, proof of refusal shall be admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle

upon the ways of this state open to the public, while under the influence of alcohol.

(3) The provisions of this part do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of alcohol."

Section 5. Section 61-8-406, MCA, is amended to read:

"61-8-406. Operation of motor vehicle by a person with alcohol concentration of 0.10 or more. It is unlawful and punishable as provided in 61-8-722 for any person to drive or be in actual physical control of a motor vehicle upon the ways of this state open to the public while the alcohol concentration in his blood, breath, or urine is 0.10 or more."

-End-

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 31, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Thursday, January 31, 1985 at the hour of 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 390: Rep. Dorothy A. Cody, chief sponsor of this bill, appeared before the committee and offered testimony on behalf of the bill. She submitted some amendments to the bill that were necessary because of a misunderstanding in the original drafting. A copy of her testimony was marked as Exhibit A and the proposed amendments that she submitted were marked as Exhibit B. She also submitted a copy of a page of a transcript referred to in her testimony which was marked as Exhibit C.

Lieutenant Jerry S. Wilkerson, from the Montana Highway Patrol, appeared and offered support for HB 390. He said that occasionally a person who has had his license revoked or suspended from driving a motor vehicle will drive a farm tractor because it is not covered under the definition of "motor vehicle".

Kimberly A. Kradolfer, an assistant attorney general wished to go on record in support of this bill as amended. This bill will simply bring the vehicle within the DUI statutes and the per se statutes and get drunk drivers off the road.

There were no further proponents or opponents, Rep. Cody closed, and the floor was opened up for questioning.

In response to a question from Rep. Brown, Rep. Cody said that snowmobiles are already covered by the statutes.

Rep. Addy asked if these were the kinds of vehicles that people would most likely to get a probationary license to drive during the term of the sentence. Rep. Cody said that the bill would allow that if an individual is driving his tractor down a public road under the influence, the officer may arrest him.

Rep. Mercer suggested that the word "vehicle" be placed after the word "term" in Rep. Cody's amendment.

Rep. Montayne feels that horses should also be included under this statute.

There being no further questions, the hearing closed on HB 390.

CONSIDERATION OF HOUSE BILL NO. 395: Rep. Dave Brown, chief sponsor of this bill testified in support of it. He stated that this bill essentially removes the civil liability from establishments and persons in individual residences to sell, serve, give or deliver alcoholic beverages whether or not for profit. The bottom line for this legislation is that as it stands now, the supreme court has in most cases ruled along these lines in the past, and we wish to have it in the statute. One of the biggest reasons for the bill is that businesses have a difficult time acquiring liability insurance. We should place the responsibility of an individual's actions back on that individual. Glen Drake, representing the American Insurance Association, spoke in favor of the bill. He stated that there are two basic reasons why they support this bill. He said that it places the responsibility of a particular act on the person who committed it. The other reason is that the legislature, by adopting this piece of legislation, is also accepting responsibility of determining public policy and not leaving the determination of that public policy up to the supreme court.

Roger McGlenn, representing the Independent Insurance Agents Association of Montana, appeared in support of the bill. "We feel that the limitations that this will place on quicker liability in the statute is necessary from the affordability and the availability of insurance."

Bonnie Tippy, representing the Alliance of American Insurers, wished to go on record as supporting this bill.

Phil Strope, representing the Montana Tavern's Association and the Montana Innkeeper's Association, testified in support of the bill. Mr. Strope informed the committee of the difficulties bars deal with in retaining insurance and obtaining it at an affordable price. Mr. Strope stated that a recent operator had told him that his coverage will go from $900 a year to $4,500 when the policy is renewed later in 1985. When the risk is hard to quantify, the carrier who wants to

Rep. Keyser stated that this subject has been discussed many times in previous sessions. The bill is flawed, and he feels that it is up to the committee to kill it.

With that, the question was called and the motion for a DO NOT PASS carried with Reps. O'Hara, Montayne, Brown, and Gould dissenting.

ACTION ON HOUSE BILL 390: Rep. Hammond moved that HB 390 DO PASS. The motion was seconded by Rep. Keyser and further discussed. Rep. Brown moved to adopt the amendment proposed by Rep. Cody and previously discussed. The motion was seconded by Rep. Hammond.

Rep. Brown stated during discussion that a license was not needed to ride a horse or drive a bike. Therefore, why should it be taken from you for a DUI violation.

It was brought out that an individual does not need a license in order to drive a tractor on a public road.

Rep. Keyser stated that he doesn't want to see bicycles amended out of the bill. He feels that the bill should be left as initially proposed.

The question was called and the motion failed.

Rep. Montayne moved that on lines 16 and 17 the word be inserted: "animal used as a means of transportion". There being no second, the motion failed.

Rep. Keyser moved that HB 390 DO PASS. The motion was seconded by Rep. O'Hara. Discussion followed.

Rep. Mercer admonished the committee that we should be careful when we include bicycles. He feels that we are going too far when we include bicycles with other motor vehicles.

Rep. O'Hara moved to reconsider the amendment proposed by Rep. Cody. The motion was seconded by Rep. Mercer. Rep. Mercer said he felt if people are going to drive something while they are drunk, he would rather they rode a bike. He doesn't think riding a bike and walking are that different from each other. Rep. Grady spoke against the motion. He feels that bicyclers should be held liable for causing a serious accident such as making a vehicle to swerve. The question was called and the motion failed 7-11.

Rep. Keyser moved that the bill DO PASS. The motion was seconded by Rep. Hammond and passed with Rep. Kruegar and Rep. Brown dissenting.

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1/31/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE 1/31/85 BILL NO. HB 390 TIME 11:05

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. O'Hara moved to reconsider the amendment proposed by Rep. Cody. The motion was seconded by Rep. Mercer and failed 7-11.

STANDING COMMITTEE REPORT

January 31 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 390

FIRST reading copy (WHITE)
color

BRINGING ALL VEHICLES UNDER LAW ON DRIVING UNDER INFLUENCE

Respectfully report as follows: That HOUSE Bill No. 390

DO PASS

REP. TOM HANNAH
Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

VISITORS' REGISTER

JUDICIARY COMMITTEE

JSE BILL NO. 370 (Rep. Pistoria) DATE 1/31/85
390 (Rep. Cody)
SPONSOR 395 (Rep. Brown)

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jerry S Wilkerson	303 N Roberts Helena Mt.	390	
Bob Durkee	Helena	395 X	
D. W. Karren	Helena	395 X	
Bob Burt	Helena	395	
Marie E Durkee	Helena	395	
Roger McGlenn	Helena	395 ✓	
Walter Jackovich	Butte	395 -	
Mike Meloy	Helena	370	✓
Mike Mathews	Livingston 395 Amend		
Kimberly J. Kradolfer	Attorney General's Office 833 5th #1 Helena	390 ✓	
Bonnie Tippy	Helena	395	
Glen Drake	Helena	395	
Dave Brown	Butte - #72	395 ✓	
Paula Pistoria	Ft Belknap. State Rep	H.B. 370	
Secretary	State Librarian		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EXHIBIT A
1/31/85
HB 390

The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

Mr. Chairman, Ladies and Gentlemen of the Committee,

For the record, my name is Dorothy Cody and I represent House District #20.

Before I present HB 390 to you, I have passed out some amendments to the bill that were necessary because of a misunderstanding in the original drafting.

On December 3, the Roosevelt County Attorney came to me with a transcript of a trial and a request that I introduce legislation that would assist them with a problem they have from time to time on the D.U.I. Statutes. I have also passed out a copy of one page of that transcript that will help you to better understand the problem.

I would also like to read to you a short paragraph from the County Attorney's letter.

I would appreciate your consideration and do pass recommendation of this bill.

EXHIBIT B
1/31/85
HB 390

PROPOSED AMENDMENTS TO HB 390, INTRODUCED COPY:

1. Page 1, line 16

Following: "part"

Strike: remainder of lines 16 through 17 in their entirety

Insert: ". For the purposes of chapter 8, part 4, ~~this~~ the term vehicle does not include a bicycle as defined in 61-1-123."

DEFENDANT: No I haven't. I haven't been driving.

THE COURT: If you want to plead guilty today, I think you are in better shape to do it. However, if you want to have a jury trial, Okay, what do you want to do.

DEFENDANT: Will you put me in jail then today?

THE COURT: I will put you in jail today, yes, for ten days.

DEFENDANT: What do you think, Pete?

MR. PETE SPAABECK: Sure, why not.

DEFENDANT: Up to you.

MR. PETE SPAABECK: No it is up to you.

DEFENDANT: And then is it over with?

THE COURT: Well if you don't drive.

DEFENDANT: Well I am not driving now. I said that, that I am not driving now.

THE COURT: And if you did, you won't have a license for a long long time.

DEFENDANT: Well I've got a WD9, am I allowed to drive a tractor?

THE COURT: I don't know.

DEFENDANT: Are Al and Vickie still over there?

THE COURT: Al & Vickie who?

DEFENDANT: Over in the jail there?

EXHIBIT D
1/31/85
HB 390

~~PROPOSED~~ AMENDMENTS TO HB 390 ~~INTRODUCED COPY.~~

1. Page 1, line 16

Following: ~~"part"~~ "part"

Strike: remainder of lines 16 through 17 in their entirety

Insert: ". For the purposes of chapter 8, part 4, ~~this~~ the term vehicle does not include a bicycle as defined in 61-1-123."

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

March 6, 1985

The forty-second meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on March 6, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senators Galt and Shaw, who were excused.

CONSIDERATION OF HB 390: Representative Dorothy Cody, sponsor of the bill, presented written testimony in its support (Exhibit 1). In addition, she left with the committee a copy of a court transcript to which she referred (Exhibit 2).

PROPONENTS: Kim Kradolfer, Assistant Attorney General and legal counsel for the Highway Patrol, testified this is a problem which the Highway Patrol occasionally faces. This will not affect licensing requirements, but they will be prohibited from driving a tractor drunk.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Yellowtail stated he is concerned that on page 1, line 17, we have stricken a vehicle driven by animal power. Representative Cody explained that question came up in the House hearing on this bill. The only thing she could say is probably horses had more sense than people. Senator Mazurek asked if this still would not apply to the tractor in the field, but only on the ways of the state. Representative Cody responded yes.

CLOSING STATEMENT: None.

Hearing on HB 390 was closed.

CONSIDERATION OF HB 210: Representative Mary Ellen Connelly, sponsor of the bill, testified this bill came about as a result of the increased DUI laws last session, after which they discovered a loophole. This would establish the criminal offense of vehicular assault while under the influence of alcohol or drugs. This would also establish a penalty of a fine not to exceed $1,000 or imprisonment not to exceed one year or both.

normal check is on the state of previous residence. Senator Towe asked if you were asked by the State of Arizona if there were a DUI conviction on a Montana citizen, would you relay the information to him? Mr. Tooley replied yes. Senator Towe asked if you can do that under the Criminal Justice Information Act. Mr. Tooley replied yes. Senator Towe asked if there were statutory authority in the drivers' license compact to exchange that information. Mr. Tooley replied yes.

CLOSING STATEMENT: None.

Hearing on HB 600 was closed.

ACTION ON HB 390: Mr. Petesch explained what this really does is add farm tractors and implements of husbandry and exempts bicycles and animal drawn vehicles. Senator Blaylock commented he could see putting in the tractor. However, he questioned big combines going down the road. Senator Pinsoneault stated he thinks this is a step in the right direction. Mr. Petesch stated chapters 3 and 4 are licensing and registration. Chapter 8, part 4, is specifically DUI. For purposes of only the DUI statutes, it will take in all motor vehicles, farm tractors, and implements of husbandry. Senator Pinsoneault moved HB 390 be recommended BE CONCURRED IN. The motion carried with Senator Daniels voting in opposition.

ACTION ON HB 210: Senator Towe moved HB 210 be recommended BE CONCURRED IN. Mr. Petesch explained the effect of this bill is to double the penalty for misdemeanor assault with a motor vehicle. Currently you can be convicted of misdemeanor assault for negligently causing bodily injury to another with a weapon, and there are cases that define motor vehicle as a weapon. The motion carried with Senator Daniels voting in opposition.

ACTION ON HB 246: Senator Towe moved HB 246 be recommended BE CONCURRED IN. Senator Brown stated he was still confused about the whole business between suspension and revocation. Senator Mazurek stated under the current laws, if a person is convicted of DUI; he appears before the judge; the judge writes out the result of the hearing that the person was convicted and the sentence he was issued; and he sends it to the division. The division then goes out and collects that person's license. In those cases where you have that suspension, it would allow the judge to physically take the license. Ms. Kradolfer further explained suspension is for 90 days to a year. Senator Daniels asked what you do when the person doesn't have his driver's license with him. Senator Brown asked how you got your license back. Ms. Kradolfer replied the judge would send it in with the report of the conviction. Senator Mazurek explained when the suspension time is up, they mail it back to

ROLL CALL

SENATE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Date 030685

NAME	PRESENT	ABSENT	EXCUSED
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Bruce D. Crippen	X		
Senator Jack Galt			X
Senator R. J. "Dick" Pinsoneault	X		
Senator James Shaw			X
Senator Thomas E. Towe	X		
Senator William P. Yellowtail, Jr.	X		
Vice Chairman Senator M. K. "Kermit" Daniels	X		
Chairman Senator Joe Mazurek	X		

Mr. Chairman, Members of the Committee, for the record, my name is Dorothy Cody, Representative of House District 20.

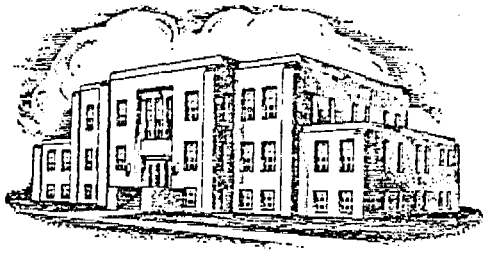
House Bill 390 is the result of a problem we have in our county with a gentleman who has been an habitual offender of the D.U.I. Laws. He has been a very difficult individual for the patrol, Sheriff's Officers and the Courts. As you can see by one page I have given you from a Court transcript that he has expressed an intent to drive his W.D.9 and there is little doubt that he will do so, drunk or sober.

This does not seem to be a singular incident as the Highway Patrol run into the problem more often than we would suspect and as the law now reads, they are unable to do anything.

House Bill 390 brings all vehicles into the D.U.I. Statutes except for animal powered and bicycles. I think it is a simple bill, easy to understand and will need no amending and I ask that you give it a Do Pass consideration.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 030685
BILL NO. HB 390

PHONE 653-2653



COUNTY OF ROOSEVELT
OFFICE OF
COUNTY ATTORNEY
WOLF POINT, MONTANA 59201

December 3, 1984

Dorothy A. Cody
Wolf Point, MT 59201

Re: Proposed Legislation

Incorporate 23-2-631

61-1-102 + 103

Dear Dorothy:

I have taken a renewed interest of late in a problem that arises with fair frequency to police and patrol.

At present, Sections 61-8-401 and 61-8-406, M.C.A., prohibit the operation of a motor vehicle by drinking drivers. The problem with the law is that, by definition of "motor vehicle", a number of vehicles such as farm tractors are excluded and are therefore lawful to drive, drunk or sober.

A number of years ago, there was an attempt made in the legislature to amend the definition which had the effect of complicating the law so badly it had no chance.

My proposal is to amend the laws to include the term "any vehicle" as well as "motor vehicle". Given the current popular climate to curb the drinking driver, I don't see any reason why that simple solution wouldn't be acceptable to everyone.

Enclosed are copies of previous correspondence in the matter. If you need some help or encouragement, talk to Majerus and Greely about it.

Very truly yours,

James A. McCann
Roosevelt County Attorney

GMS:bdm

Enclosures

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 030685
BILL NO. HB 390

August 1, 1984

Mike Greely
Attorney General
215 N. Sanders
Helena, MT 59620

Dear Mike:

From time to time we are confronted with a problem in regard to the DUI statutes, 61-8-401 and 61-8-406, which I believe could be very easily remedied by a minor amendment.

Occasionally officers in our area encounter persons obviously under the influence of alcohol operating vehicles, not defined as motor vehicles under 61-1-102 (such as farm tractors, golf carts, quadwheelers, bicycles, etc.) on streets or highways.

It would be very helpful if the per se and DUI statutes were amended to include any vehicle.

Several years ago, a bill was in the legislature to redefine motor vehicle or something like that. It caused a tremendous problem because it conflicted with equipment, registration, licensing and drivers license areas of the laws and complicated the simple operation of a farm tractor at anytime to such an extent that the bill was defeated.

A drunk driver of some of these huge farm tractors can be a much greater menace to the public than, say, a drunk driver of a VW.

I would appreciate hearing your comments to this suggestion.

Very truly yours,

James A. McCann
Roosevelt County Attorney

JAM:bdm

cc: Marc Racicot
and
Motor Vehicle Division

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 030685

DEFENDANT: No I haven't. I haven't been driving.

THE COURT: If you want to plead guilty today, I think you are in better shape to do it. However, if you want to have a jury trial, Okay, what do you want to do.

DEFENDANT: Will you put me in jail then today?

THE COURT: I will put you in jail today, yes, for ten days.

DEFENDANT: What do you think, Pete?

MR. PETE SPAABECK: Sure, why not.

DEFENDANT: Up to you.

MR. PETE SPAABECK: No it is up to you.

DEFENDANT: And then is it over with?

THE COURT: Well if you don't drive.

DEFENDANT: Well I am not driving now. I said that, that I am not driving now.

THE COURT: And if you did, you won't have a license for a long long time.

DEFENDANT: Well I've got a WPD, am I allowed to drive a tractor?

THE COURT: I don't know.

DEFENDANT: Are Al and Vickie still over there?

THE COURT: Al & Vickie who?

DEFENDANT: Over in the jail there?

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 030685
BILL NO. HB 390

IN THE DISTRICT COURT OF THE FIFTEENTH
JUDICIAL DISTRICT OF THE STATE OF MONTANA,
IN AND FOR THE COUNTY OF ROOSEVELT

* * * * * * * * * * * * * * * * * * * *

THE STATE OF MONTANA,

against

ANKER MARTINUS SPAABECK,

Defendant.

* * * * * * * * * * * * * * * * * * * *

NO. 1108-C

TRANSCRIPT OF THE SENTENCING HEARING HELD ON NOVEMBER 27th, 1984

TUESDAY, November 27th, 1984
JUDGES CHAMBERS
Roosevelt County Courthouse
Wolf Point, Montana

HEARD BEFORE HONORABLE M. JAMES SORTE, DISTRICT JUDGE OF THE STATE OF MONTANA, IN AND FOR THE COUNTIES OF SHERIDAN, DANIELS AND ROOSEVELT

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 030685
BILL NO. HB 390

CALMER A. ERSNESS
OFFICIAL COURT REPORTER

APPEARANCES

FOR THE STATE OF MONTANA:

Mr. James A. McCann, Esq.,
Roosevelt County Attorney
112 Main
Wolf Point, Montana 59201

NO COUNSEL APPEARED ON BEHALF OF MR. ANKER MARTINUS SPAABECK

SENATE JUDICIARY COMMITTEE
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THE COURT: Okay, let the record show that this is the 27th of November, and it is now 9:28 A.M., and we are here in the matter of the State of Montana versus Anker Martinus Spaabeck. The County Attorney is here representing the State of Montana and Mr. Spaabeck is here and he was ordered to be here at 9:00 o'clock but the roads were bad this morning and he couldn't get here at nine.

DEFENDANT: They were icy, and Pete drove.

THE COURT: And we still have this matter of a third time DWI and I rather suspect that you should have a lawyer here with you.

DEFENDANT: I can't afford one, and the last one that I had when I was over there, he didn't show up, and I requested one when I was up here the last time.

MR. MCCANN: No you never requested one.

Spaabeck: ~~THE COURT~~: Well I did over at the jail. I spent five hundred dollars on one lawyer and he run out on me. That was McCarvel.

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THE COURT: You have any property or funds to hire one?

DEFENDANT: No I don't, I have two cents in my pocket.

THE COURT: Don't you own some property over in Froid?

DEFENDANT: No Pete owns that.

THE COURT: There is absolutely nothing in here about you asking for a lawyer. I asked you about getting a lawyer and you said that you would. I said, "....don't you want to talk to a lawyer about this?" and you said, "Ask Pete". Then Pete asked you, "Don't you want to talk to a lawyer about this?" and you said "Yes, I will talk to a lawyer. Who is our lawyer?". Then I said, "Well you have to get one. I guess we could continue this until he gets one.". Then Mr. McCann said "We did that three weeks ago, he said that he was going to get a lawyer and here it is almost a month now.". And then I asked you, "Do you want a jury trial over this?" and you said "I will go

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to the highest court there is.". And then I said "Well, you've got to start here first...", and then you said "I guess I need some time" and you've done nothing since that time.

DEFENDANT: I hired McCarvel during the time I was in there for protective custody and ---

THE COURT: Where was this?

MR. MCCANN: Here in the jail, when he was picked up on this insanity matter.

DEFENDANT: Sure, and I took the insanity test and I passed that with flying colors and I gave him five hundred dollars on that one. I get tire giving lawyers five hundred dollars and they run out on me. I told him that I wanted him to help me on this DWI and he said "The hell with you.".

MR. MCCANN: Anker, when you say you passed this insanity test with flying colors, that is partly true, but the finding of the psychologist shows that you are an alcoholic, and just as soon as you got a couple of drinks and ---

DEFENDANT: You were not there.

MR. MCCANN: I've seen the written report that he filed with this Court.

DEFENDANT: You may have seen the written report but you wasn't there when I was there.

MR. MCCANN: The last time that you were here ---

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DEFENDANT: Mr. McCann, I called him up and I asked him to alleviate that a little bit. His name is ...

PETE SPAABECK: Was that Bill Jones?

DEFENDANT: Yes, Bill Jones. Yes, I called him over the weekend and I told him to alleviate that statement in the report there.

MR. MCCANN: He can't do that. Now you also called other people over the weekend, didn't you.

DEFENDANT: No I didn't. Who did I call?

MR. MCCANN: You call Officer Neumiller's wife.

DEFENDANT: No I did not.

MR. MCCANN: And Officer ....., right?

DEFENDANT: Me?

MR. MCCANN: Yes.

DEFENDANT: I don't even have a phone. They took my phone out when I was in jail, they took my pickup and someone else took me home, and I didn't have much to drink. I am pretty sober. Pretty sober.

MR. MCCANN: Did you see Judge Bradley on Sunday?

DEFENDANT: Yes -- on Sunday?

MR. MCCANN: At her house.

DEFENDANT: Not at her house though, but I talked to her, and I said I will see you in Court Monday.

THE COURT: Well, are you ready to go to trial now if we have a jury here.

DEFENDANT: What?

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THE COURT: Are you ready to go to trial right now, if we have a jury here.

DEFENDANT: Well, what do you want me to do? I just want to be free. I just want to be free, that's all.

THE COURT: You know what I want you to do? I want you to go somewhere and get dried out.

DEFENDANT: All right, I will do that. Where do you want me to go? If you want me to go to Glasgow, I will go there.

THE COURT: This is the first time ---

DEFENDANT: It is cold out there, and I am tired paying heat bills. I have cost the county a lot of money, and it has cost me a lot of money too. It won't bother me to go to Glasgow, or go to Meade or what. Now that I have been home for a cuple of weeks now, it is not so nice outside here now. It is getting cold outside there.

MR. MCCANN: It is not a matter of going, Anker, but that you cooperate with the program when you get there. You won't do that, will you?

DEFENDANT: I have done that.

MR. MCCANN: You won't admit that you have a drinking problem, Anker, will you?

DEFENDANT: I've had that all my life, Mr. McCann.

MR. MCCANN: Well why don't you do something about it and cooperate with them?

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A I cooperated with them. I feel sorry for those guys in there. They are a lot worse off than I am.

MR. MCCANN: Well I don't know about that.

DEFENDANT: Jim, I've never hurt anybody, I've never forced anybody to do nothing, I've never shot anybody, and I've never had an accident either.

MR. MCCANN: But you keep threatening to do all of those things.

DEFENDANT: I've never hurt anybody.

THE COURT: Well maybe you've never had an accident but how many accidents do you want? Do you want one with a family of five in it, does that sound logical to you?

DEFENDANT: I've never had an accident.

THE COURT: You've never done it, but what do you want to do, wait until you've killed somebody in an accident? Then you can come in and say I was wrong, I won't do that anymore. Is that logic?

DEFENDANT: I have been walking ten miles a day now. I don't have any vehicle to go around in. I have to walk, and I enjoy being outside.

THE COURT: I don't know. Is there

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a possible chance of some kind of treatment? Is that what you want to do, go back to Fort Meade?

DEFENDANT: I will go back to Meade, any time.

MR. MCCANN: Will they take you back?

DEFENDANT: You bet they will. I'll go back to Meade.

THE COURT: How long were you there before?

DEFENDANT: 29 days.

MR. MCCANN: No that's not right, Anker, you were there only eight to ten days.

DEFENDANT: How long?

MR. MCCANN: You were supposed to be there 29 days, but you didn't stay there that long.

MR. PETE SPAAHECK: He was there all but seven days.

MR. MCCANN: But you never ever once cooperated with them during the time you were there.

DEFENDANT: What do you mean? Cooperated with them?

MR. MCCANN: Go through their program there.

DEFENDANT: I went to every class. I did everything except say that I was an alcoholic ---

MR. MCCANN: That's correct.

DEFENDANT: And they never even asked me that either. They said "you look like you're Okay, you don't need that program.

MR. MCCANN: That is not what they told me.

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DEFENDANT: I've been four months dry this year. I spent two months in the Veteran's Hospital in Miles City to get operated on, and I spent two months in the God Damm jail over here, that's six months, isn't it? That's a long time without a drink. Then you say I'm an alcoholic.

MR. MCCANN: Yes.

DEFENDANT: If I was an alcoholic I would be drinking all the time. Anytime you go a half year without a drink -- how long have you been without a drink, Mr. McCann?

MR. MCCANN: I don't have to answer that.

DEFENDANT: I know you can't, you can't answer that.

MR. MCCANN: Have you been able to talk to him, Pete?

MR. PETE SPAABECK: Yes.

MR. MCCANN: What does he say about this?

MR. PETE SPAABECK: Well the last four or five days he has been sober, outside maybe two or three beers. No whiskey and tends to business.

DEFENDANT: I fixed my house up.

MR. PETE SPAABECK: I still think though that he has an alcoholic problem.

THE COURT: That is my understanding also. I don't know. The last time you were here you said you wanted to plead guilty and I said I wouldn't accept it and I wanted you to talk to

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a lawyer because this is a very serious offense, and this is the third DWI and you lose your license and you have to spend at least ten days in jail if you plead guilty, and at that time you were going to talk to a lawyer, and we talked about having a jury trial. I really didn't have too much hope of you coming in, but if you want a jury trial, we can get a jury in here by tomorrow morning, if that is what you want to do.

DEFENDANT: I am tired of all of this, this is all costing the county a lot of money and also costing me a lot of money too.

THE COURT: What do you want to do with this? Do you still want a jury trial, we could get one in here by tomorrow morning because we can get on the phone and have a jury in here by tomorrow morning.

DEFENDANT: Well give me an alternative on that, will you?

THE COURT: I don't know what other alternative I've got.

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DEFENDANT: Well, turn me loose today and let me go, and just forget about all of this.

THE COURT: I can let you go until tomorrow morning, and you can come back here and have a trial for DWI, and if you are convicted of that, you will have to spend ten days at least in jail.

DEFENDANT: I've already spent ten days in jail.

THE COURT: That was for other things. This is why, when I went over this on the 7th of November, I really don't think that you understood all of this.

DEFENDANT: Well will you give me ten days in jail today and then it is over with?

THE COURT: I could. If you plead guilty to this, and then I could, and you would also lose your license for a period of no less than one year.

DEFENDANT: I know that.

MR. MCCANN: He has already lost that, but this would lose it for you for three more for this.

THE COURT: You have not been driving now, have you?

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DEFENDANT: No I haven't. I haven't been driving.

THE COURT: If you want to plead guilty today, I think you are in better shape to do it. However, if you want to have a jury trial, Okay, what do you want to do.

DEFENDANT: Will you put me in jail then today?

THE COURT: I will put you in jail today, yes, for ten days.

DEFENDANT: What do you think, Pete?

MR. PETE SPAAHECK: Sure, why not.

DEFENDANT: Up to you.

MR. PETE SPAAHECK: No it is up to you.

DEFENDANT: And then is it over with?

THE COURT: Well if you don't drive.

DEFENDANT: Well I am not driving now. I said that, that I am not driving now.

THE COURT: And if you did, you won't have a license for a long long time.

DEFENDANT: Well I've got a WD9, am I allowed to drive a tractor?

THE COURT: I don't know.

DEFENDANT: Are Al and Vickie still over there?

THE COURT: Al & Vickie who?

DEFENDANT: Over in the jail there?

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THE COURT: Is he still over there?

DEFENDANT: I miss my old pinocle player. He is in playing solitary over there now probably.

THE COURT: Well I will let you plead guilty today if you want to do that. I don't think that last time you were in the right mental state, and if you want to do that today, I will let you do that. I will give you a minimum of ten days in the jail.

MR. MCCANN: Thirty days, with all but ten days suspended.

THE COURT: Yes.

MR. PETE SPAABECK: The last time, he put in ten days for that last time, the DWI.

DEFENDANT: I thought that it was ten days for not coming back to court. It is just like those damm alcoholic counsellors over here.

MR. MCCANN: What about him?

DEFENDANT: What about it, I will tell you about him. He came over there to counsel me and he said -- I was feeling bad, you know, as I had to go to jail and I couldn't get out of jail, and I felt real lousy that day. My best friend's funeral was that day, and I wanted to go to the funeral. I said that I didn't have time to argue with you today, my best friend is getting buried right now and so would you please

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come back on Monday and I will talk to you. Monday came along and he wasn't there. Tuesday came along and he wasn't there, and then when I left the jail, I went down to see him and I asked him how come you didn't come back to see me, and he said "Oh, it was Veterans Day, that's a holiday". There is no holidays in jail you know. The man made a promise to me and he didn't come, and he didn't come either on Monday or on Tuesday like he said he was going to. He told me that he was coming back on Monday to counsel me and I told him that I would be glad to take the test. I told him that, that I would be glad to take the test. He never showed up. I don't think the man is worth his word, do you, Mr. McCann? I really don't. Will you talk to him on that?

MR. MCCANN: Yes I can. Do you want to go back to jail or have a trial, Anker?

DEFENDANT: I don't care if I ever see that man again. He broke his promise, Sir. What do you think, Sir?

THE COURT: Sure.

MR. MCCANN: Is that what you want to do, Anker?

DEFENDANT: What?

MR. MCCANN: Do you want a trial, or go back to jail today?

DEFENDANT: I am tired of fighting this, fighting lawyers, tired of the whole damm thing.

THE COURT: I am too.

DEFENDANT: You've spent more time on me, I know that ---

THE COURT: You're right there.

DEFENDANT: But this is felony, this is a misdemeanor. There are some hard core people over there. I saved an Indian's life over there, remember that? And I save a guy from trying to escape over there. You remember that? I guess he was a federal guy, and he finally went down to Glendive and raised all kind of hell down there, but I saved two people over there.

THE COURT: Well what do you think you want to do today?

MR. PETE SPAABECK: May I see you alone, Judge on this?

THE COURT: Certainly.

AT THIS TIME, The Judge, the County Attorney and Mr. Pete Spaabeck left the Judge's Chambers and consulted on this matter outside the hearing of this Reporter, the Defendant and the Clerk of Court. Thereafter they did return and the following proceedings were had:

THE COURT: Well, what do you want to do on this, do you want to enter a plea of guilty today and I will give you ten days in jail, and during that time, we will try to get you back into Meade?

DEFENDANT: I suppose so.

THE COURT: Well if we do that, Jim

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here will try to look into getting you back into Meade. Do you know anyone down there Pete?

MR. PETE SPAABECK: I know the counsellor down there is all.

THE COURT: They could help you down there if you cooperate with them.

DEFENDANT: Wayne O'Connor is his name. I calledup Denver to get my eye ball scraped and they said they could have me down there in a week. Could I postpone this for a week and then come in and spend my ten days in jail?

MR. MCCANN: No.

DEFENDANT: Could I spend the ten days on weekends?

MR. MCCANN: No.

DEFENDANT: Give me some leniceny.

MR. MCCANN: We have already done that. You could get a lot more than ten days you know. You could get a year or so. I believe it is a year.

THE COURT: It is.

MR. MCCANN: Ten days is absolute rock bottom.

THE COURT: I'll give you ten days today and try to get you into Meade and you can get into a program there.

DEFENDANT: Okay. I will be glad to be back in Meade.

THE COURT: If you do that, I will consider releasing the five hundred

bond if you complete the program down there.

DEFENDANT: What?

THE COURT: If you complete the program down there I would consider releasing the five hundred dollars. That is pretty good wages, better than you are making right now.

DEFENDANT: Fine.

MR. PETE SPAABECK: They did send him a letter for him to come up there for the annual reunion, so they don't consider him an outcast or anything like that.

DEFENDANT: Sure I was invited back down there.

THE COURT: Well they are not going to invite you back here, Anker.

DEFENDANT: I know that, I know that, Judge Sorte.

THE COURT: Now you have been given a copy of this charge that have been filed here, haven't you?

DEFENDANT: Yes.

THE COURT: And you do understand what you have been charged with?

DEFENDANT: JudgeSorte, I still don't think that I was due here on the 6th. Remember I said that I wanted to vote for Mondale and election day was on the 6th. Remember I said that I wanted to vote, vote for Mondale?

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MR. MCCANN: No that is not right. I remember that you said you wanted to vote.

DEFENDANT: That's right, I said I wanted to vote for Mr. Mondale.

MR. MCCANN: You said you wanted to vote, but you were still to report back here in court, remember that?

DEFENDANT: Well Judy called up, and ---

MR. MCCANN: Well we are getting off the track here.

THE COURT: Well do you want to go through with this or just argue about it?

DEFENDANT: I don't want to argue.

THE COURT: Now you have been charged with driving while intoxicated for the third time, is that right?

DEFENDANT: Pardon?

THE COURT: You have been charged with driving for the third time while intoxicated, is that right?

DEFENDANT: Right.

THE COURT: And I've told you what the penalty would be, ten days in the county jail -- one year in the county jail and a thousand dollar fine, or both, but that you could spend a

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CALMER A. ERSNESS EXHIBIT NO. 2

minumum of ten days, and you have had lots of time to think about this case, and I've asked you whether you want to plead guilty today, or if you want to have a jury trial, and I believe you said that you don't want one, and I will have to tell you that if you plead guilty today, you will lost some of your constitutional rights; you will waive a right to a speedy trial, a trial by a jury; the right to see and question witnesses against you; you can request witnesses and evidence in your favor; that you may testify or remain silent; that you may call witnesses in your favor and all evidence in your favor; the right to a qualified lawyer at and after trial; and an instruction to the jury that you are presumed innocent; an instruction to the jury that the State must prove you guilty beyond

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a reaonable doubt. Now if you enter a plea of guilty, you will waive all of these fights. Now if you enter a plea of guilty, you will waive all of thse rights, do you understand that?

DEFENDANT: Yes.

THE COURT: And if you say that you are guilty, that there will be no trial by jury and it will be up to me to sentence you, do you understand that?

DEFENDANT: Yes.

THE COURT: Then what is your plea?

DEFENDANT: Guilty.

THE COURT: All right, then I will accept your plea of guilty, and you will have to spend ten days in the county jail. If you go to Fort Meade and complete the program there, I will give you back your five hundred dollars, which was put up for bon, -- if you complete the program there.

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DEFENDANT: All right.

THE COURT: Okay, I believe that the defendant understands his constitutional rights and he has waived his rights after entering a plea of guilty to the charge, so that will be the sentence then, ten days in the county jail -- or one year in the county jail with all but one year suspended, and then the county officials here will try to get you into Fort Meade and you complete the treatment program there, whatever that will be, and if you are successful in that completion of the program there I will consider returning the five hundred dollars, Okay?

DEFENDANT: Fine.

MR. MCCANN: While we are sill on the record, if the Court please, I would like to file in this matter the statement of the arresting officer so that the record here will be more complete.

THE COURT: Okay.

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(Same is delivered to the Court)

THE COURT: I certainly hope that you can do that down there. We are not hassling you -- I guess we are hassling each other here, and ---

DEFENDANT: I know that. It is no fun for me either.

THE COURT: This isn't fun for any of us.

DEFENDANT: I know that. It has been a long hassle, that is for sure.

MR. MCCANN: Anker, then you can go out with the officer here and go over to the jail.

DEFENDANT: Okay.

MR. MCCANN: I will go down there right now and see Jerry.

DEFENDANT: Okay, thank you.

WHEREUPON this hearing was CONCLUDED.

---oOo---

COURT REPORTER'S AFFIDAVIT

I, Calmer A. Ersness, do hereby certify that I am the Official Court Reporter who reported by means of shorthand, the above mentioned hearing, and that this transcript is a true and correct transcription of my shorthand notes, to the BEST OF MY ABILITY.

Dated this 30th day of November, 1984.

Calmer A. Ersness - Court Reporter

SENATE JUDICIARY COMMITTEE
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CALMER A. ERSNESS
OFFICIAL COURT REPORTER
P. O. BOX 978

STANDING COMMITTEE

March 6 19 35

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 390

third reading copy (blue color)

(Senator Crippen)

BRINGING ALL VEHICLES UNDER LAW ON DRIVING UNDER INFLUENCE

Respectfully report as follows: That HOUSE BILL No. 390

BE CONCURRED IN

~~XXXPASS~~

~~XXXXNOTPASS~~

Senator Joe Mazurek Chairman.